

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION

NO. 5:03-CV-313-H(3)

DBM SYSTEMS, INC., )

Plaintiff, )

v. )

MUNIS, INC., and TYLER )  
TECHNOLOGIES, INC., )

Defendants. )  
\_\_\_\_\_ )

**SCHEDULING ORDER**

The parties have filed a Discovery Plan, pursuant to Rule 26, FED. R. CIV. P., which has been considered by the Court and found to be reasonable. Accordingly, the portions of the Discovery Plan **not inconsistent with the following deadlines or the Federal Rules of Civil Procedure**, ARE ADOPTED. The critical deadlines are:

1. All discovery will be concluded by **April 1, 2004**.
2. Reports from retained experts in-chief on the subjects of liability and damages are due from Plaintiffs by **November 1, 2003** and from Defendants by **December 1, 2003**. Reports from rebuttal experts are due **January 15, 2004**.
3. All potentially dispositive motions will be filed by **May 3, 2004**.

No party is permitted to amend its pleadings without consent or without leave of court and no party may add a party (or parties) without leave of court. This rule does not abrogate

a parties' ability to amend as of right. See FED. R. CIV. P. 15(a).

This action is calendared for trial before Judge Malcolm J. Howard at his Greenville Division term beginning on or after **September 7, 2004**. A trial calendar indicating the order in which cases will be called for trial at that term will be distributed two months beforehand. At the same time, a final pre-trial conference will be scheduled approximately two weeks before the trial.

Any defendant who makes an appearance after this scheduling order has been entered shall be required to confer with opposing counsel and make disclosures pursuant to FED. R. CIV. P. 26(a)(1) within twenty (20) days after the defendant's appearance in the case. In addition, any late-appearing defendant will be bound by the discovery provisions contained in this Order unless the defendant petitions the Court by motion to amend this Order.

Supplementation under Rule 26(e) must be made promptly after receipt of the information by the party or counsel. In addition, motions to join additional parties and to amend pleadings must be made promptly after the information giving rise to the motion becomes known to the party or counsel.

**Counsel are cautioned not to be dilatory in pursuing discovery. Motions for extensions of these times are not favored if they would require a continuance of the trial.** The Court needs about 90 days between the motion filing deadline and the trial to allow enough time for motions to become ripe, to be reached and ruled upon before trial.

Counsel are reminded that on consent of all of the parties and with the concurrence

of the District Judge this case could be referred to a Magistrate Judge (and a jury, if appropriate) for trial with a peremptory trial setting and with appeal to the Fourth Circuit. A copy of the consent form may be obtained from the Clerk. If all parties wish to exercise this option, it should be done as soon as possible. Consents may not be permitted after the trial calendar is printed.

Finally, the parties are also reminded that on request this Court will assist with settlement negotiations or other ADR, such as Summary Jury Trial by making available a judge other than the trial judge to explore these possibilities.

DONE AND ORDERED in Chambers at Raleigh, North Carolina this 30<sup>th</sup> day of June, 2003.

  
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WILLIAM A. WEBB  
UNITED STATES MAGISTRATE JUDGE

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